

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

DAVID EARL BALFOUR,

Petitioner,

Case Number 2:05-CV-72189  
Honorable Denise Page Hood

v.

BLAINE C. LAFLER,

Respondent.

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**ORDER DENYING MOTION TO APPOINT COUNSEL AND  
WITHDRAWAL OF PRESENT COUNSEL**

Before the Court is a Motion to Appoint Counsel and Withdrawal of Present Counsel filed June 19, 2013. The Court entered a Judgment and an Order conditionally granting the Writ of Habeas Corpus on April 30, 2013. For the reasons stated below, the motion is DENIED.

Conditional grants of writs of habeas corpus are final orders that ordinarily operates automatically without the need for the district court to act further. *Gentry v. Deuth*, 456 F.3d 687, 692 (6th Cir. 2006). The district courts retain jurisdiction to execute the judgment if the state fails to comply with the conditional writ. *Id.* When the state fails to comply with the conditional writ, the petitioner must be released from custody. *Saterlee v. Wolfenbarger*, 453 F.3d 362, 369 (6th Cir. 2006).

The Motion to Appoint Counsel and Withdrawal of Present Counsel must

be denied since the Court no longer has jurisdiction over the matter, other than ensuring that the State of Michigan has complied with the writ. It is noted that the Court did not appoint any counsel to represent Petitioner in this matter while the case was pending before the Court since there was no evidentiary hearing held before this Court. Rule 8 of the Rules Governing Section 2254 Cases. The Court has no authority to appoint new counsel to represent Petitioner in proceedings before the State courts, nor allow present counsel to withdraw from the proceedings before the State courts. Counsel's appearance before this Court is governed by E.D. Mich. LR 83.25. Because the Court has entered a final Judgment in this case, the Court has no authority on matters relating to the parties and their counsel. This matter may be raised with the current court which has jurisdiction over the case at this time.

Based upon the foregoing, the Motion to Appoint Counsel and Withdrawal of Present Counsel [Doc. # 44] is **DENIED**.

**S/Denise Page Hood**  
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**Denise Page Hood**  
**United States District Judge**

**Dated: July 17, 2013**

**I hereby certify that a copy of the foregoing document was served upon counsel of record on July 17, 2013, by electronic and/or ordinary mail.**

**S/LaShawn R. Saulsberry**  
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**Case Manager**